

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHERMAN LAMONT WAGNER,

Petitioner,

Case No. 2:17-cv-12814
Hon. George Caram Steeh

v.

ANTHONY STEWART,

Respondent.

_____/

**ORDER DENYING PETITIONER'S MOTION
TO ALTER OR AMEND JUDGMENT [Dkt. 8]**

Petitioner, Sherman Lamont Wagner, a state prisoner, filed this case under 28 U.S.C. § 2254, challenging his Michigan convictions. On October 31, 2017, the Court summarily dismissed the petition because Petitioner failed to pay the \$5.00 filing fee or file an application to proceed in forma pauperis. The Court notified Petitioner of the filing deficiency and provided him an opportunity to correct it.

Petitioner's motion asserts that he attempted to pay the filing fee by having his girlfriend deliver funds to the Department of Corrections, and then directing the Department to issue a check and send it to the Court.

Petitioner has proffered a copy of the disbursement record. Nevertheless, the Court has no record of receiving the fee.

The dismissal of the case was without prejudice. Petitioner may still pursue federal habeas relief by filing a new petition for writ of habeas corpus as well as the filing fee or an application for leave to proceed in forma pauperis.

Petitioner's motion will therefore be **DENIED**.

SO ORDERED.

Dated: December 7, 2017

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on December 7, 2017, by electronic and/or ordinary mail and also on Sherman Lamont Wagner #345690, G. Robert Cotton Correctional Facility, 3500 N. Elm Road, Jackson, MI 49201.

s/Barbara Radke
Deputy Clerk